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Calendar No. 510

99TH CONGRESS
2d Session

SENATE

REPORT
99-235

ORIGINAL

CONVEYANCE OF CERTAIN LANDS IN THE NEBRASKA NATIONAL FOREST, NE, TO THE NEBRASKA GAME AND PARKS COMMISSION

FEBRUARY 6 (legislative day, JANUARY 27), 1986.—Ordered to be printed

Mr. MCCLURE, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 360]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 360), to direct the Secretary of Agriculture to convey, without consideration, to the Nebraska Game and Parks Commission, approximately 160 acres of land within the Nebraska National Forest to be used for the purposes of expanding the Chadron State Park, NE, having considered the same, reports favorably thereon with an amendment to the text and an amendment to the title, and recommends that the bill as amended do pass.

The amendments are as follows:

1. Strike all after the enacting clause and insert in lieu thereof:

That, subject to the provisions of section 2 of this Act, the Secretary of Agriculture shall convey to the Nebraska Game and Parks Commission, all right, title, and interest of the United States in approximately 173 acres of National Forest System land in Dawes County, Nebraska, as depicted on a Department of Agriculture, Forest Service map entitled "Land Conveyance, Nebraska National Forest", dated October 1985. The map and legal description of the land conveyed by this Act shall be on file and available for public inspection in the office of the Chief, Forest Service, Department of Agriculture.

SEC. 2. The conveyance made pursuant to section 1, shall reserve to the United States all gas, oil, coal, and other mineral deposits as may be found in the lands conveyed by this Act. The Secretary shall provide that title in the lands conveyed shall revest in the United States upon failure of the Nebraska Game and Parks Commission to use the land as part of the Chadron State Park, Nebraska.

SEC. 3. The lands shall be conveyed without consideration except that the Nebraska Game and Parks Commission shall bear all reasonable costs of administration, survey and appraisal incident to such conveyance as determined by the Secretary of Agriculture.

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2. Amend the title so as to read:

A bill to direct the Secretary of Agriculture to convey, without consideration, to the Nebraska Game and Parks Commission, approximately 173 acres of land within the Nebraska National Forest to be used for the purposes of expanding the Chadron State Park, Nebraska.

PURPOSE OF THE MEASURE

The purpose of S. 360 as reported is to direct the Secretary of Agriculture to convey a 173-acre tract of land in the Nebraska National Forest, Dawes County, Nebraska, to the Nebraska Game and Parks Commission. The tract would be conveyed to the State agency without consideration and would become a part of the Chadron State Park. Subsurface rights owned by the United States would be retained. Title to the tract would revert to the United States if the land ceased to be used as part of Chadron State Park.

BACKGROUND AND NEED

This tract lies north of and adjacent to the State Park. Conveyance to the State agency is being sought to expand the camping facilities at the park. The land in question was acquired by the United States in 1938 under authority of title III, section 31, of the Bankhead-Jones Farm Tenant Act of 1937 (50 Stat. 522, as amended; 7 U.S.C. 1011). The tract is typical of National Forest land in the area; no unique ecological, archaeological or historical features are located on the tract. There is an exchange of use agreement with the Chadron State Park administration wherein the park uses 30 acres of National Forest land to graze horses and the Forest Service uses 145 acres of parkland which is under a grazing permit to a private rancher. The rancher would lose the permitted grazing use and access to water if the conveyance took place, although this use could possibly be shifted to another grazing allotment on the National Forest. An encroachment by an adjoining private landowner occurs on the east side of the tract. This encroachment, involving a portion of a residence, results from an erroneous survey.

LEGISLATIVE HISTORY

S. 360 was introduced by Senator Zorinsky on January 31, 1985. The Subcommittee on Public Lands, Reserved Water and Resource Conservation held a hearing on S. 360 on October 4, 1985. The Administration recommends that S. 360 not be enacted unless amended.

At a business meeting on February 6, 1986 the Senate Committee on Energy and Natural Resources ordered S. 360, as amended, favorably reported.

COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on February 6, 1986, by majority vote of a quorum present recommends that the Senate pass S. 360, if amended, as described herein.

The rollcall vote on reporting the measure was 17 yeas, 1 nay, as follows:

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YEAS	NAYS
Mr. McClure	Mr. Metzenbaum
Mr. Hatfield	
Mr. Weicker*	
Mr. Domenici*	
Mr. Wallop	
Mr. Warner*	
Mr. Murkowski*	
Mr. Nickles	
Mr. Hecht	
Mr. Evans	
Mr. Johnston	
Mr. Bumpers*	
Mr. Ford	
Mr. Melcher	
Mr. Bradley*	
Mr. Bingaman*	
Mr. Rockefeller*	

*Indicates vote by proxy.

COMMITTEE AMENDMENTS

During the consideration of S. 360, the Committee adopted an amendment in the nature of a substitute. This substitute, in section 1, corrects the land description and reflects the correct approximate acreage to be conveyed. Two acres that are in private ownership or in encroachment are not conveyed. Section 2 in the substitute retains any subsurface rights for the United States and provides for reversion of the conveyed lands to the United States if not used as a part of the State park. Section 3 provides that the administrative costs of the conveyance be borne by the park authority but the lands are otherwise conveyed without cost.

COST AND BUDGETARY CONSIDERATIONS

The Congressional Budget Office estimate of the costs of this measure has been requested but was not received at the time the report was filed. When the report is available, the Chairman will request it to be printed in the Congressional Record for the advice of the Senate.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 360. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 360 as reported.

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EXECUTIVE COMMUNICATIONS

The pertinent legislative reports received by the Committee from the Department of Agriculture setting forth executive agency recommendations relating to S. 360 are set forth below:

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DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20250

SENATE COMMITTEE ON
ENERGY AND NATURAL RESOURCES
OCT 18 1985

October 15 1985

Honorable James A. McClure
Chairman, Committee on Energy
and Natural Resources
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

As you requested, here is our report on S. 360, a bill "To direct the Secretary of Agriculture to convey without consideration, to the Nebraska Game and Parks Commission, approximately 160 acres of land within the Nebraska National Forest to be used for the purposes of expanding the Chadron State Park, Nebraska."

The Department of Agriculture recommends that S. 360 not be enacted unless amended as recommended herein.

This bill would direct the Secretary of Agriculture to convey, within 180 days following enactment, a 160-acre tract of land in the Nebraska National Forest, Dawes County, Nebraska, to the Nebraska Game and Parks Commission. The tract would be conveyed to the State agency without consideration and would become a part of the Chadron State Park. Subsurface rights owned by the United States would be retained. Title to the tract would provide that the tract would revert to the United States if the land ceased to be used for park purposes.

The tract lies adjacent to the State Park on the north. The description of the tract in section 1(c) of the bill actually describes 175 acres of National Forest land. Conveyance to the State agency is apparently being sought to expand the camping facilities at the park. The land in question was acquired by the United States in 1938 under authority of Title III, Section 31, of the Bankhead-Jones Farm Tenant Act of 1937 (50 Stat. 522, as amended; 7 U.S.C. 1011). The tract is typical of National Forest land in the area; no unique ecological, archeological or historical features are located on the tract. There is an exchange of use agreement with the Chadron State Park administration wherein the park uses 30 acres of National Forest land to graze horses and the Forest Service uses 145 acres of parkland which is under a grazing permit to a private rancher. The rancher would lose the permitted grazing use and access to water if the conveyance took place, although this use could possibly be shifted to another grazing allotment on the National Forest. An encroachment by an adjoining private landowner occurs on the east side of the tract. This encroachment, involving a portion of a residence, results from an erroneous survey. We are negotiating a settlement of this encroachment under the provisions of the Small Tracts Act (96 Stat. 2535; 16 U.S.C. 521c). Any conveyance to the State should exclude this 2-acre parcel.

We agree that conveyance of the tract to the Game and Parks Commission would be desirable. We do not agree that conveyance should be without consideration.

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These National Forest lands are for the use and enjoyment of the entire Nation. The general public should benefit from conveyance to the State agency. In keeping with the President's direction that all conveyances of Federal land should be at fair market value, we recommend that the bill be amended to require payment for the tract. This can be done by deleting the phrase "without consideration" on line 6, page 1, and inserting "upon payment to the Secretary of Agriculture of an amount equivalent to fair market value." A preliminary estimate of the value of the tract is $45,000. This estimate recognizes sales and exchanges of similar land in the immediate area and considers the present and potential future use of the tract. A formal appraisal of the tract has not been made.

It should be recognized that adequate authority is available to convey the tract under Section 32(e) of the Bankhead-Jones Farm Tenant Act. The Forest Service has been negotiating with the Game and Parks Commission on such an exchange for the land described in S. 360 since 1973. Two tracts of land owned by the State have been identified as suitable for exchange.

We believe consummation of a land exchange under existing authority is preferable to legislation. Granting the land to the State by Act of Congress would set an undesirable precedent, encouraging other States and local governments needing land to expand public facilities to seek similar treatment. If this bill is pursued, however, we strongly encourage the Committee to adopt our amendment to require payment of fair market value. We estimate that the Federal Government's incurred cost would be $5,000 if S. 360 were enacted with our recommended amendment.

Copies of maps showing location of the 175-acre tract, State lands identified for possible exchange, and other features in the area are enclosed.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

John R. Block

John R. Block
Secretary

Enclosures (3)

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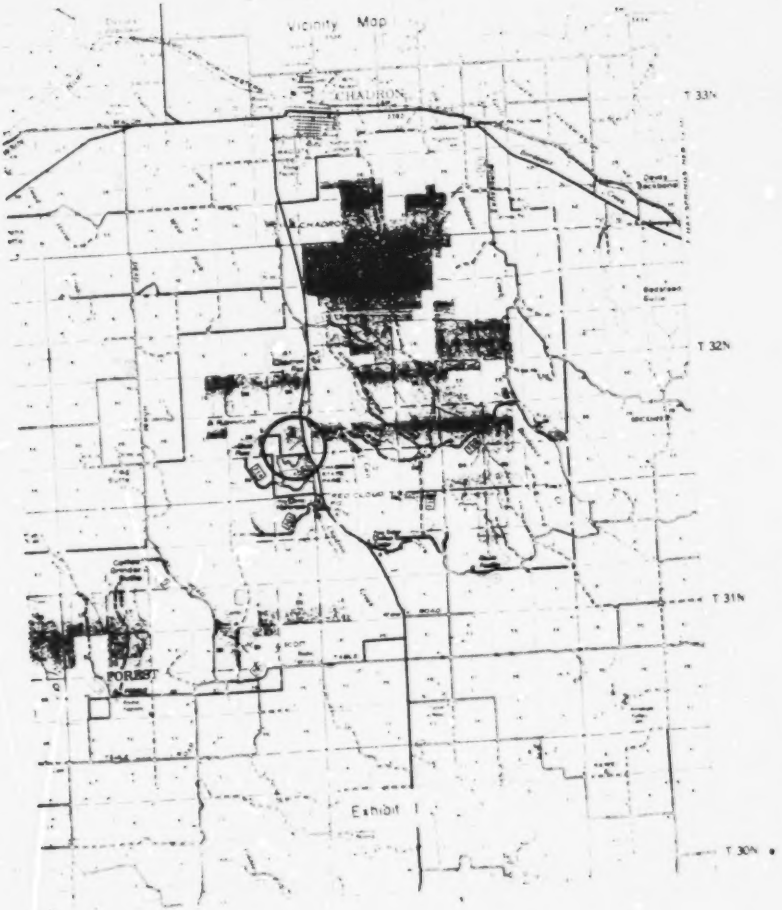

Exhibit 1

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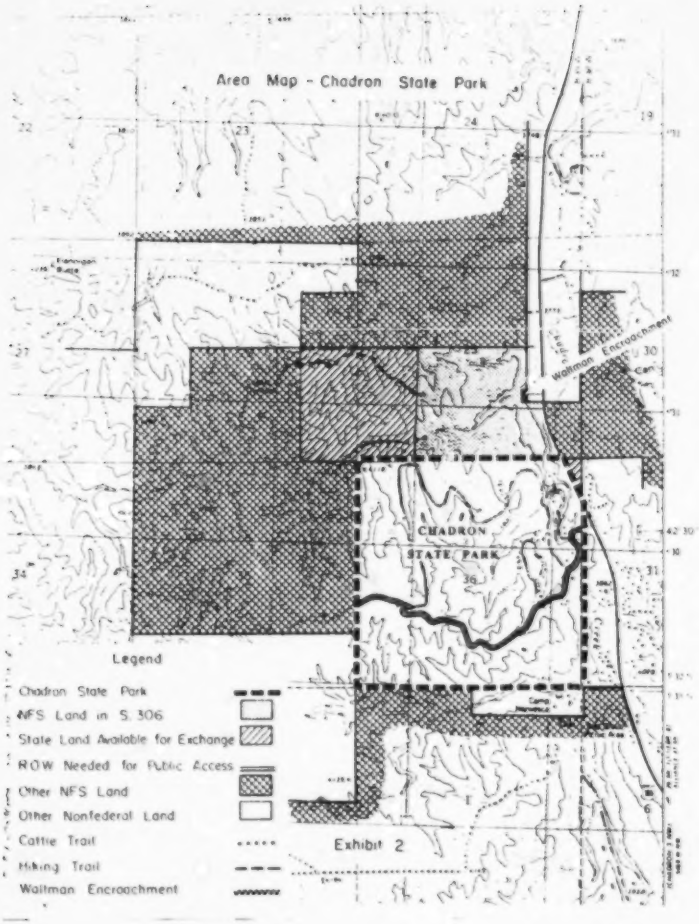

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Waltman Encroachment

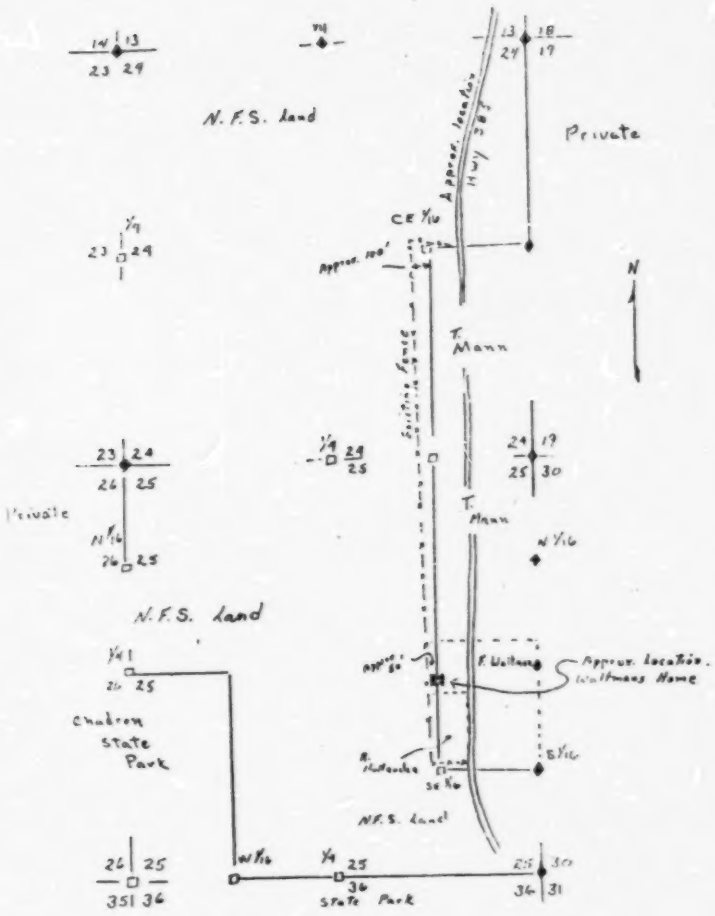

Exhibit 3

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CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill, S. 360, as reported.

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